

UNITED STATES DISTRICT COURT

for the

District of _____

Division _____

Case No. _____

(to be filled in by the Clerk's Office)

Dillon W. Harness-Simmons

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

See Attached (L.B)

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

All other names by which
you have been known:

ID Number

Current Institution

Address

Dillon W. Horner Simmons

Dillon W. Horner - Dillon W. Simmons

22825

Same County Jail

P.O. Box 366

Marshall

City

MO

State

65340

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Job or Title (*if known*)

Shield Number

Employer

Address

Crawfeyette County Jail

Federal & State holding facility

N/A

Unsure

107 S. 11th St.

Lexington

City

MO

State

64067

Zip Code



Individual capacity



Official capacity

Defendant No. 2

Name

Job or Title (*if known*)

Shield Number

Employer

Address

Deputy Dobson

Jailer

N/A

Crawfeyette County Jail

107 S. 11th St.

Lexington

City

MO

State

64067

Zip Code



Individual capacity



Official capacity

Defendant No. 3

Name

Jonathan McKittrick

Job or Title (if known)

Federal Inmate

Shield Number

N/A

Employer

Federal Prisoner

Address

107 S. 11th St.

Lexington

City

MO

State

64067

Zip Code



Individual capacity



Official capacity

Defendant No. 4

Name

Joshua Goodspeed

Job or Title (if known)

Federal Inmate

Shield Number

N/A

Employer

Federal Prisoner

Address

107 S. 11th St.

Lexington

City

MO

State

64067

Zip Code



Individual capacity



Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

Federal officials (a *Bivens* claim)

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Cruel & Unusual Punishment

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

Claci 3 Unusual Punishment, Dehumanizing, Torture

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Unsure to Meaning of 'Color'

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):



Pretrial detainee



Civilly committed detainee



Immigration detainee



Convicted and sentenced state prisoner



Convicted and sentenced federal prisoner



Other (explain)

County inmate on Charge of Venue

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

N/A

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

Lafayette County Jail A-holding Lexington, MO

C. What date and approximate time did the events giving rise to your claim(s) occur?

Unable to approximate Due to Change of venue

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

See attached 1.B)

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Mental trauma sustained. No treatment provided

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims. For having to suffer inhumane conditions, I not only Request Injunctive Relief But additionally I'd like to Request punitive Damages along with Pain & suffering, Dehumanization, & MY violation to a secure & safe place in the amount of \$150,000.
I also Request a trial By Jury

1.B)

Plaintiff: Dillon W. Horness-Simmons

V.

Defendant(s): Lafayette County Jail, Deputy Dobson,
Jonathan McKinnick, & Joshua Goodspeed.

From 2021 to 2022 I was in Placet in Protective Custody which is A-Holding in Lafayette County Jail, Due to a prior Sexual Assault incident in work Release with inmate Gregory Blair. The entirety of my time in that cell, my Mat & Sleeping quarters were on the ground next to a toilet. Needless to say Not only was the 12x12 cell overcrowded But Much of the time for me, I smelt urine & fecal. Whether this was the Cause to my later Sickness is unknown. But what ~~too~~ is known is that (due to ~~the~~ No grievance box) I asked Sgt. Boyer several times if I could be Moved elsewhere. Her Response was I Couldn't go to Work Release Because of a inmate & there was no where else to go. I continued overtime asking her to move me & letting her (since she was Sgt.) that it was overcrowded & hot. I even eventually made several attempts at getting the Lt's (Jail admin) attention as he passed by our door. I would try to call to him only to be ignored. There was no solution nor response ever to this inhumane treatment & in fact only came to a end shortly after I was waterboarded, which I'll get into now.

1.B2)

Continued:

Kenneth Mize, Anthony DeClue, Jonathan McKinnis, Joshua Goodspeed, I & 1 other person at this time were in this single holding cell. As stated it was overcrowded & I slept on the floor of the 12x12 cell which only had 2 1/2 Bunks in it. Mize & DeClue to 1 Bunk. John to the 1/2 Bunk. Goodspeed & the other person whose name I forgot on the other one. And me on the floor, feet under Johns Bunk with my head next to the toilet. Overcrowded. Inhumane & cruel. 23 hours a Day.

Often the 23 hours are spent getting along or at least trying, sleeping & playing whatever games we could come up with. Other times there's some fights & violence. Much of it unreported because as stated earlier (overcrowding) by Sgt. Boyer, there's no where else to go. And to 'switch' only makes things worst. So cell issues get solved in the tiny ass cell. I being the smallest one would get picked on Bullied into these 'sparring' or boxing matches. I was also a good source to vent anger at! ~~about~~ So with that in mind, & I can't remember the Approx Date or exactly what led up to it, Joshua Goodspeed & I ended up getting waterboarded.

At the time we had these gray polymer storage totes. 2 of them were laid face down so someone could lay on top of them.

Head at the end & hanging down. Feet hanging off. First was Josh, he laid down & DeClue had retrieved individual cups of water while John found a shirt to use to cover the face. He wanted to do it because in his own words "I have experience in this." DeClue

held Josh's Arms Down as John put a shirt over his face

1.B3)

& started pouring. There was nothing 'Safe' in place & as cruel as this is it only stopped because there was 5 cups of water. And again as cruel as this is, Gootsaces actually got up like he accomplished & achieved something.

This happened again, but this time with me laying down. I was pressured, forced, & I feel like I was made to endure this torturous exercise. However, this time Josh held my hands, Declue fetered water, & John with his 'expertise' did the pouring & shirt placement. I thought I could survive & make it through by just holding my breath. However, the water was poured slow (remember, heads hanging off) & due to my inability to hold my breath it's the same reason why I started choking & after 2 cups why it stopped. I felt like I was suffocating. Dehumanized & Deprived. It's given me to this today flashbacks & fear of water hitting my face.

One evening after our quarantine from Covid was over we were walking back to another pod for showers, I trailed back. Dekson was escorting us & I told him, "I was waterboarded. You know that? I want to make" he laughed it up like it was a joke. I was speechless. So during showers, I meant to put in a electronic grievance. But the Black Box's were broken. So my grievance never got put in & my verbal grievance was never taken seriously. I was tortured. with waterboarding. And nothing could be done. Despite electronic evidence, & have eye witness's to this cruel

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Lafayette County Jail Lexington, ME

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☒ No

☐ Do not know

If yes, which claim(s)?

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☐ Yes

☒ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☒ No

- E. If you did file a grievance:

1. Where did you file the grievance?

2. What did you claim in your grievance?

3. What was the result, if any?

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. *(Describe all efforts to appeal to the highest level of the grievance process.)*

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

*with 5 other inmates in a 12x12 cell w/o
I was on 2331 ~~the only way~~ a formal or electronic way to
file a grievance except for verbal*

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any: *I stated to Deputy Robson I was waterboarded & he responded by just laughing. I also informed Sgt. Boyer that I was uncomfortable lying on the floor next to the toilet. & she stated they had no where else to put me. So sleeping on the floor next to a toilet in a overcrowded cell was my best option.*

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

Kenneth Mize was a witness to my conversation & events

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐

Yes

☒

No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

☐ Yes

☒ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

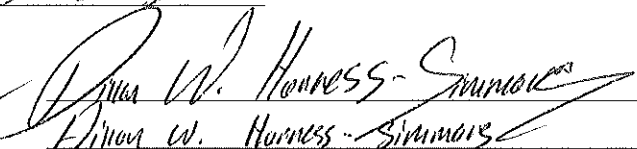
IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: July 5th 2023

Signature of Plaintiff 

Printed Name of Plaintiff Dillon W. Horness-Simmons

Prison Identification # 22825

Prison Address P.O. Box 366

Marshall City MO State 65240 Zip Code

B. For Attorneys

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Address _____

City State Zip Code

Telephone Number _____

E-mail Address _____



US POSTAGE
ZIP 64022 © 2007

RECEIVED

2023 JUL 17 PM 1:14

CLERK U.S. DIST. COURT
WEST DIST. OF MO
KANSAS CITY, MO

Ollie W. Harness - Simmons
Saline County Jail
P.O. Box 366
Marshall, MO 65340

MAILED FROM THE
SALINE COUNTY JAIL

U.S. District Court
Office of the Clerk
1510 Whitaker Courthouse
400 E. Ninth Street
Kansas City, MO 64106